

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

FACTORY MUTUAL INSURANCE  
COMPANY, a Rhode Island Company, as  
Subrogee of Post Holdings, Inc., a Missouri  
corporation, Michael Foods of Delaware, Inc., a  
Delaware corporation, and M.G. Waldbaum  
Company, a Nebraska Company;

Plaintiffs,

vs.

HENNING COMPANIES, LLC, an Iowa  
Limited Liability Company;

Defendant.

**8:22-CV-432**

**ORDER**

This matter is before the Court on the Motion to Dismiss filed by defendant Henning Companies, LLC, (Henning). [Filing 11](#). The Motion cites no legal authority and does not include a brief as required by Nebraska Civil Rule 7.1(a)(1)(A). *See* NECivR [7.1](#)(a)(1)(A) (“A motion raising a substantial issue of law must be supported by a brief filed and served together with the motion.”). Plaintiff Factory Mutual Insurance Company (Factory Mutual) filed a brief opposing the Motion and a Motion for Leave to File an Amended Complaint. [Filing 13](#); [Filing 15](#). Although Henning opposes Factory Mutual’s Motion for Leave to File an Amended Complaint, [Filing 17 at 5](#), given Henning’s noncompliance with Rule 7.1 and the absence of legal authority in its initial motion,<sup>1</sup> the Court finds it prudent to grant Factory Mutual’s Motion for leave to file an Amended Complaint. *See R.A.D. Servs. LLC v. State Farm Fire & Cas. Co.*, 60 F.4th 408, 412 (8th Cir. 2023) (“The district court has considerable discretion in applying its local rules.”). Upon the filing of an amended complaint, Henning can then file a motion to dismiss directed at the amended

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<sup>1</sup> Henning does provide legal authority in its reply brief, [Filing 17](#), but the authority is only in response to Factory Mutual’s Brief in Opposition.

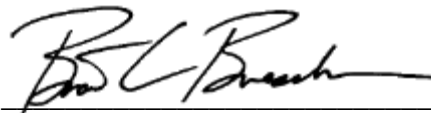
complaint, if Henning so desires, that complies with the Court's local rules. The Court expects future motions raising substantial issues to comply with Rule 7.1 and to include legal authority supporting the movant's position. Accordingly,

IT IS ORDERED:

1. Plaintiff's Motion for Leave to File an Amended Complaint, [Filing 15](#), is granted, and an amended complaint must be filed within fourteen (14) days of the date of this order;
2. Defendant's Motion to Dismiss, [Filing 11](#), is denied as moot and without prejudice to reassertion against an amended complaint.

Dated this 29th day of March, 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'B. C. Buescher', written over a horizontal line.

Brian C. Buescher  
United States District Judge